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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,828	07/16/2003	Karl F. Ludwig	ST8632US	1257

22203 7590 12/29/2004

KUSNER & JAFFE  
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HIGHLAND HEIGHTS, OH 44143

EXAMINER
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PEAVEY, ENOCH E

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/620,828

**Applicant(s)**

LUDWIG ET AL.

**Examiner**

Enoch E Peavey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

- 18 EP 12/24/04
- I. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- A. It is unclear how the outer surface is called "convex" and the inner surface is the inner surface is "concave", when both surfaces are curved in the same direction.
- I. Examiner will interpret the claim, as both surfaces are concave, consistent with FIG. 2 of the drawings.

***Claim Rejections - 35 USC § 103***

- II. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- A. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Maass, US No. 4,989,369.
- i. Brown discloses in a device having a chamber defined by a lid (10) and a cavity (interior), a seal member (11) for sealing the chamber comprising:
- ii. a base portion (21) adapted to be received within a slot formed in the lid
- a seal portion having a substantially concave inner surface and a substantially

convex outer surface (FIG. 2),

iii. and first and second flexible side walls (FIG. 3), each of the first and second flexible side walls connected between the base portion and the seal portion (FIG. 3), wherein the base portion, seal portion, and first and second flexible side walls define an inflatable inner cavity (FIG. 3).

iv. Each first and second flexible side walls includes first and second wall portions joined at a corner.

v. The concave outer surface includes at least one sealing edge engageable with a sealing surface surrounding the cavity.

vi. The seal includes at least one port (14) for receiving air into the inflatable inner cavity (FIG. 3).

vii. The air pressure inside the inflatable inner cavity exerts forces that counteract external forces on the seal member, thereby maintaining a seal (i.e. the seal being located in the interior of the chamber automatically exposes it to pressure of the vessel chamber).

viii. The external forces on the seal member are exerted by fluid pressure inside the chamber.

ix. The seal member further comprises a finger (see curved bottom FIG. 3) for preventing fluid flow into the slot.

x. Brown does not disclose the base portion having both a L-shaped corner at a first end (contacting 17, as shown in Mass), a radiused corner at a second end (contacting 16 as shown in Mass), a second slot (near 20, as shown in Mass) formed in a first

flexible side wall and a finger (22, as shown in Mss) extending from a first flexible side wall and biased toward the second slot.

xi. Mass discloses a seal having such an arrangement in order to in order to effectively retain the seal.

xii. It would have been obvious to one of ordinary skill in the art at the time of applicants invention to modify Brown as taught by Mass in order to effectively retain the seal.

### ***Response to Arguments***

III. Applicant's arguments filed 22 September 2004, with regard to the 112 rejections, have been fully considered but they are not persuasive. Applicant argues the claim is not indefinite because the surfaces being convex and concave have been defined with respect to the area surrounding respective sides. Examiner disagrees. The claim as written is still unclear because it does not define the reference points in the claim (*i.e. the area surrounding respective sides*).

A. If applicant wish to define one surface with regard to one reference point and the other surface with regard to another reference point applicant should make clear in the claim what reference points he is defining the surface with respect to.

B. Unless more than one reference point is defined in the claim; All directional orientation of structure in the claim will be interpreted with regard to ***one consistent*** reference point i.e. surfaces oriented in the same direction must have the same directional description.

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C. With regard to the 102(b) rejection, applicant has amended his claim rendering the invention no longer anticipated by Brown. However, a new 103 (a) rejection is still appropriate for reasons set out above.

IV. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

V. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enoch E Peavey whose telephone number is 305 1977. The examiner can normally be reached on Mon-Fri 8:00 am to 4:30 am.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Enoch Peavey can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Enoch Peavey  
Art Unit 3676  
December 24, 2004

